REMARKS

In accordance with the foregoing, no claim has been amended. Therefore, claims 1, 5-8, 10-12, 16-19, 21 and 22 are pending and under consideration. Reconsideration is respectfully requested.

I.   REJECTION UNDER 35 U.S.C. § 103

In the outstanding Office Action, claims 1, 5-8, 10-12, 16-19, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Replay Gain (RG, hereafter) in view of Takahiro (JP 02-089252), and MP3 CD Maker. The rejection is respectfully traversed.

Independent claim 1 recites, among other features, "a) recording entry audio data in song units and simultaneously decoding the audio data, and detecting an audio level average of the decoded data," and "wherein the step (a) determines the audio level average of the decoded data by excluding certain parts of the decoded data having an audio level outside of a prescribed range extending from a maximum audio reference level to a minimum audio reference level." Independent claims 7, 12 and 18 include similar features in varying scope.

These features are supported at least by Figure 2 and the corresponding description of the present specification. For example, Figure 2 illustrates the audio level average of the decoded data is determined by excluding certain parts of the decoded data having an audio level outside of a prescribed range extending from a maximum audio reference level (Ref_Max) to a minimum audio reference level (Ref_Min).

As shown in Figures 1 and 2, the audio level detector (16) excludes an audio data level, outside of a prescribed range extending from a maximum audio reference level (Ref_Max) to a minimum audio reference level (Ref_Min). In the process of determining the audio level average, it prevents the maximum/minimum audio levels Audio_Level_Max/Min (depending on the unique characteristics for each song) from affecting the overall audio level average of every song. See also paragraph [025] of the present specification. Using the audio data within the prescribed range, the audio level detector (16) determines or calculates the audio level average

for that song or the designated song unit. Then, the microcomputer (13) receives and stores the determined audio level average and maximum/minimum audio levels in song units in the memory (17).

In contrast, the cited references including RG, Takahiro and MP3 CD Maker do not teach or suggest that an audio level average of the decoded data is determined by excluding certain parts of the decoded data having an audio level outside of a prescribed range extending from a maximum audio reference level to a minimum audio reference level. The Office Action states that calculation page, "3. Statistical Processing" in RG teaches these features of the independent claims (see page 3 of the Office Action). Applicants respectfully disagree.

RG at "3. Statistical Processing" discloses the RMS values are sorted into numerical order, and the value 5% down the list is chosen to represent the overall perceived loudness of the signal. In other words, the audio level average is determined by virtue of choosing the RMS value 5% down from the top of the sorted list. However, RG does not disclose excluding a range less than a minimum audio reference level. Therefore, RG can not prevent a minimum audio level depending on the unique characteristics for each song from affecting the overall audio level average of every song.

Further, the other cited references fail to overcome these deficiencies of RG. Hence, the cited references do not teach or suggest the features that the audio level average of the decoded data is determined by excluding certain parts of the decoded data having an audio level outside of a prescribed range extending from a maximum audio reference level to a minimum audio reference level.

As discussed above, RG, Takahiro or MP3 CD Maker, and any combination thereof, do not teach or suggest these features recited in independent claims 1, 7, 12 and 18. Accordingly, it is respectfully submitted independent claims 1, 7, 12 and 18 and each of the claims depending therefrom are allowable.

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Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mr. Jun S. Ha, Reg. No. 58,508 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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